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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,656	09/25/2003	Clifton Harold Bromley	03SW165 / ALBRP310US	8367
7590	06/14/2006		EXAMINER	
Susan M. Donahue Rockwell Automation 704-P, IP Department 1201 South 2nd Street Milwaukee, WI 53204			TRAN, VINCENT HUY	
			ART UNIT	PAPER NUMBER
			2115	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/670,656		BROMLEY ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Vincent T. Tran		2115	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-27 and 29-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-27 and 29-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This Action is responsive to the amendment filed on 3/30/2006.
2. Claims 1-42 are pending for examination. Claims 8, 28 are cancelled.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1, 3-7, 21-29, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Dumarot et al. Patent No. 6,059,842 (“Dumarot”).
5. As per claim 1, Dumarot discloses an application modifier system, comprising:
  - a display component [fig. 1] to specify the application to be modified [410, 420 fig. 4; col. 3 lines 42-46; col. 4 lines 41-67] and a target operating environment [440 fig. 4; from col. 4 line 67 to col. 5 line 3];
  - an interrogation component that determined parameters associated with the operating environment for the application [col. 3 lines 36-38; col. 5 lines 48-51]; and

a modification component that automatically modifies the application based at least in part upon the determined parameters so that it will function as desired within the execution environment [col. 3 lines 38-42; col. 7 lines 1-4] [abstract; claim 1, 6].

6. As per claim 3, Dumarot discloses a computer implemented software application [136 fig. 4].

7. As per claim 4, Dumarot does not specifically disclose that the interrogation component utilizing an artificial intelligence technique to determined parameters associated with an operating environment for the application. However, this feature is deemed to be inherent to the Dumarot's system as in the abstract shows the survey tool optimizer program operable to automatically gather environment information about the particular system. The Dumarot system would be inoperative if the survey tool does not utilize an artificial intelligence technique to gather the parameters associated with an operating environment for the application.

8. As per claim 5, Dumarot discloses the utilizing an artificial intelligence technique to configured the application based at least upon the determined parameters [inherent – 331 fig. 5].

9. As per claim 6, Dumarot discloses the application modifier system comprising an application [136 fig. 3] and a storage that stores at least one application [138 fig. 3] and at least one parameter interrogation question [331 fig. 5].

10. As per claim 7, Dumarot discloses a history components that stores historical application configurations [col. 8 lines 8-25].

11. As per claim 21-27 and 29, Dumarot teaches the claim system. Therefore, Dumarot teaches the method for operating the claimed system.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumarot as applied to claim 1 above.

14. As per claim 2, Dumarot does not teach expressly the system is employed in an industrial automation environment. However, Dumarot does specifically teach the system is operable to dynamically configure the application for a particular system depended on its operating environment. Therefore, it would have been obvious to one of ordinary skill in the art that the Dumarot's operating environment included the industrial automation environment because the specific environment does not affect the operation of Dumarot's system.

15. As per claim 9, Dumarot does not teach the utilizing of a wireless network. However, Dumarot does teach the utilizing of a remote network. As such, it would have been obvious to

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one of ordinary skill in the art that the network taught by Dumarot encompass the claimed wireless network because the specific network does not affect the operation of Dumarot system.

16. Claims 10-20, 30-40, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumarot in view of Khare US 20030182460.

17. As per claim 10, Dumarot teaches an application modifier system, comprising:  
an interrogation component that determined parameters associated with the operating environment for the application [col. 3 lines 36-38; col. 5 lines 48-51]; and  
a modification component that automatically modifies the application based at least in part upon the determined parameters so that it will function as desired within the execution environment [col. 3 lines 38-42; col. 7 lines 1-4] [abstract; claim 1, 6].

However, Dumarot teaches a virtual code component that utilizes .NET virtual machine code-ability mechanisms to covert managed code into native computer assembly.

Khare teaches another computer software managed environments. Specifically, Khare teaches a virtual code component that utilizes .Net virtual machine code-ability mechanisms to convert managed code into native computer assembly [paragraph 0005<sup>1</sup>, 0012-0013].

At the time of the invention was made, it would have been obvious to one of ordinary skill in the art to have modified to system of Dumarot with the utilizing of a .Net virtual machined to convert managed code into native computer assembly in order to protect the

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<sup>1</sup> Microsoft Corporation's .NET Framework (provided by Microsoft Corporation of Redmond, Wash.) provides a virtual machine environment with its Common Language Runtime (CLR) functionality. More specifically, the .NET programming involves compiling source code using a compiler. The compiler produces an intermediate language (IL) code and metadata. In an execution phase, the .NET programming model uses a CLR loader and a just-in-time (JIT) compiler to transform the IL and metadata into native code. The native code constitutes the actual machine code that will run on an execution platform (e.g., a specific computing machine). The compilation process provided by the loader/JIT component is referred to as "just-in-time" because the compilation can take place just prior to the execution of the code.

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integrity of the system [paragraph 0004] as taught by Khare and to enhance the portability of the application among different platforms.

18. As per claim 11, Khare teach the virtual code component that utilizes .NET to morph the application code to an underlying platform at runtime [see discussion in claim 10].

19. As per claim 12, inherent.

20. As per claim 13, obvious.

21. As per claim 14, inherent.

22. As per claim 15 [fig. 3 of Dumarot].

23. As per claim 16, Dumarot teach inherently the utilizing of an artificial intelligence technique to configure the application based at least upon the determined parameters [abstract].

24. As per claim 17, see discussion in claim 6.

25. As per claim 18, see discussion in claim 7.

26. As per claim 19, see discussion in claim 1.

27. As per claim 20, see discussion in claim 9.

### ***Conclusion***

28. Applicant's arguments with respect to claim 1-42 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vincent T. Tran whose telephone number is (571) 272-7210. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas c. Lee can be reached on (571) 272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vincent Tran

  
**CHUN CAO**  
**PRIMARY EXAMINER**